

Serial No. 10/730,512

Atty. Docket 29617/37215B

REMARKS

This paper is being presented in response to an official action dated December 17, 2004, wherein claims 1-8 and 19-27 were pending; claims 1-3, 7, and 8 were rejected; and claims 4-6 were objected to but found allowable.

By the foregoing amendments, a cross reference to the issued patent number of the parent application has been added. Claim 1 has been amended to recite that the portion of the tip disposed within the feed tube extends a portion of the length of the feed tube, support being found in Figs. 2, 4, and 5. New claims 29-34 are presented, and find support in the claims as originally filed. Specifically, claim 29 is original claim 4 presented in independent form, and claims 30-35 parallel original claims 2, 3, and 5-8, which depend from claim 29. In addition, new claims 28 and 36 are presented and recite an instrument wherein a portion of the length of the buffer is disposed in capillary coupling contact to a portion of the length of the tip, support being found in Figs. 2-5.

No new matter has been added and the amendments do not require an additional search. Claims 1-8 and 28-36 (17 total; 2 independent) are now pending, and no fee is believed to be due.

The Commissioner is hereby authorized to charge any deficiency in connection with this Amendment, or any additional fees which may be required in connection with this Amendment, to Deposit Account No. 13-2855.

Entry of new claims 28-36, entry of the amendments to claim 1 and the specification, reconsideration of the rejected claims, and allowance of all pending claims 1-8 and 28-36 are respectfully requested in view of the following remarks.

Restriction Requirement

The election of claims 1-8 (Group I) is affirmed.

Information Disclosure Statement

The official action alleges that the information disclosure statement filed on December 17, 2003, fails to comply with 37 C.F.R. § 1.98(a)(2), which requires a copies of certain documents. The official action indicates that the IDS has been placed in the file, but that "the information referred to therein has not been considered." On the copy of Form

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PTO-1449 returned to us, the U.S. patent documents have been initialed as having been considered.

The objection and non-consideration of certain identified art are traversed. 37 C.F.R. § 1.98 (d), identified in the IDS itself, specifically exempts the submission of such documents in the present circumstances. 37 C.F.R. § 1.98(d) is reproduced below:

(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

- (1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and
- (2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section. (emphasis added.)

As stated in the IDS, copies of the patents and publications were submitted to and/or cited by the Office in the parent application, U.S. Serial No. 10/106,552, to which priority is claimed under 35 U.S.C. § 120. Thus, the requirements of subparagraph (1) are satisfied.

The information disclosure statements submitted in the earlier application comply with paragraphs (a) through (c) of § 1.98. Thus, the requirements of subparagraph (2) are satisfied.

The art cited in the December 17, 2003 IDS must be considered by the Patent Office. Such action is solicited.

Rejection under 35 U.S.C. § 103(a)

Claims 1-3, 7, and 8 were rejected under 35 U.S.C. § 103(a) in view of Kauffman U.S. Patent No. 6,183,155. Claim 1 has been amended to recite that the portion of the tip disposed within the feed tube extends a portion of the length of the feed tube.

The applicants do not accept the Patent Office's characterization of Kaufmann '155 as described in the official action. Kaufmann '155 does not disclose "a porous tip 10 disposed within a feed tube 18 [sic]."

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As an initial matter of clarity, element 18 is an opening in the divider wall 4, and the "tube portions" illustrated in Fig. 4 and Fig A-A' are unlabeled. See column 1, lines 19-20, and column 3, lines 55-64.

Kauffman '155 clearly teaches that the unlabeled elements alleged in the official action to be a feed tube are, in fact, "tube portions which are of U-shape in cross section" and which extend "along" the wick 10. Column 3, lines 58-60.

Nevertheless, in the interest of advancing this application to allowance, claim 4, indicated as allowable, has been re-cast as independent claim 29 with claims 30-36 depending therefrom, and claim 1 has been amended to further distinguish Kaufmann '155 by reciting that the portion of the tip disposed within the feed tube extends a portion of the length of the feed tube. Thus, even if the wick 10 of Kaufmann '155 is considered as disposed within a tube, it is distinguished because it extends the entire length of the tube.

Reconsideration and withdrawal of the rejection on this basis are requested.

CONCLUSION

In the absence of more pertinent prior art, withdrawal of the rejection and allowance of all pending claims 1-8 and 28-36 are respectfully requested.

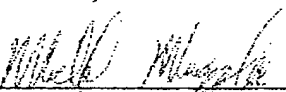
Should the examiner wish to discuss the foregoing, or any matter of form or procedure in an effort to advance this application to allowance, the examiner is urged to telephone the undersigned attorney at the indicated number.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP

March 14, 2005

By


Michael Muczynski (Reg. No. 48,642)
Attorney for Applicants

6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6357
Phone: (312) 474-6300
Fax: (312) 474-0448

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